

### III. REMARKS

Claim 18 has been rejected under 35 U.S.C 112, Second paragraph. Claim 18 has been amended to overcome the rejection.

Claims 1, 7-8, 10, and 16-17 have been rejected under 35 U.S.C. 102 as being anticipated by AAPA. The Applicants respectfully disagree.

Claim 1 calls for means to dispense a first dispensed tape length having the first selected length of sealing tape extending from one end to another opposite end of the dispensed length of tape. Clearly this is not disclosed in the AAPA. Indeed it is clearly stated in pages 1-2 of the specification (the AAPA) that in conventional tape dispensers there are significant variances and inaccuracies between the actual length of the tape dispensed and the length of tape selected for dispensing by the user. Conventional tape dispensers indeed lack the means to dispense a length of tape with its actual length extending from one end of the dispensed length to another opposite end being the selected length. Claim 1 is patentable over the cited prior art.

Claim 7 calls for means for automatically dispensing (without any other action on the part of the operator) a second selected length of tape after and in response to the first selected length of tape being removed from the dispenser, wherein the second selected length is different than the first selected length. This is not disclosed anywhere in the AAPA. Claims 7-8 are patentable over the cited prior art. Similarly, claims 16-17 are patentable over the cited prior art. Claim 10 has been deleted above without prejudice.

Claims 2-3, 5-6, 11-12 and 14-15 have been rejected under 35 U.S.C. 103 as being obvious over AAPA in view of Hayashi. The Applicants respectfully disagree.

The Applicants respectfully submit that the AAPA and Hayashi have been combined improperly. References may be combined under 35 U.S.C. 103(a) only if the references are analogous art. In this case Hayashi is not analogous art. A reference is analogous art if:

- 1) The reference is in the same field of endeavor as the applicant's, or
- 2) The reference is reasonably pertinent to the particular problem with which the applicant was concerned.

Hayashi is not in the same field as the Applicants' invention. Hayashi is directed to a cutting control apparatus in a "flying" cutter system. A "flying" cutter system employs a continuous feed of material past a "flying" or cyclic cutter that cuts the material while it is being fed. The invention in the present application is directed to a tape dispenser. Tape dispensers do not use a "flying" cutter system, because the tape material feed is stopped during cutting. Thus, these are not the same fields of endeavor. Nor is Hayashi reasonably pertinent to the particular problem with which the Applicants were concerned. The Applicants were concerned with controlling the accuracy of dispensed tape relative to the selected tape length selected by the operator. Hayashi is not reasonably pertinent to that problem. Hayashi provides a controller that maintains synchronization between the flying cutter and the material feed system when different cut lengths are specified by the operator.

The cut lengths in Hayashi are established by increasing or reducing the speed of the cyclic arm holding the cutter. However, in order to perform adequate (clean) cuts of the material in Hayashi, the cyclic speed of the flying cutter when passing through the material must be synchronous with the material feed speed. Thus, the controller in Hayashi provides control means that adjust the cyclic speed of the flying cutter to be synchronous with the material speed during the cut, when the cyclic speed of the blade in order to provide a given material length is non-synchronous with the material feed speed. This has nothing to do with the accuracy between the dispensed length of material and the selected length, the problem with which the applicants were concerned. Because Hayashi is not in the same field of endeavor as the Applicants' endeavor and is not reasonably pertinent to the particular problem with which the Applicants were concerned, Hayashi is not analogous art. Therefore, Hayashi may not properly be combined with the AAPA.

Even if combined as suggested by the Examiner, the invention recited in amended Claim 2 is patentable over the AAPA in view of Hayashi. Claim 2 calls for means mounted on the idler wheel shaft for determining that the first dispensed tape length has the first selected length. Neither the AAPA nor Hayashi disclose or suggest the features recited in claim 2. The AAPA fails to disclose means on the idler wheel shaft for determining that the first dispensed tape length has the first selected length. Hayashi also fails to disclose or suggest this. As noted before, in Fig. 2 Hayashi discloses a "flying" cutter that cuts material 12 that is continuously fed past the cutter at a given constant speed 19. The cutter 26 is brought (cycled) into and out of contact with the material 12 by a cyclic mechanism (rotary arm 22 rotated via gear 21 by motor 20). In order for the cutter to

make a proper cut (a cut without distortion/tearing of the material or damage of the cutter) of the moving material 12, the cyclic speed of the cutter 26 at the cut must be synchronized with the speed that material 12 is being fed. In other words, when the cutter 26 makes contact with the material 12, the revolving speed of the cutter 26 must be such that the component of the cutter revolving speed in the direction of travel of the material is equal to the traveling or feed speed of the material (i.e. synchronous speed) (see col. 4, lines 40-45). Roller 28 (it is noted that Hayashi fails to make any mention whatsoever that roller 28 is an idler roller) is used to measure the feed speed of the material. The signal from the roller encoder 27 is sent to an arithmetic circuit 42 that correlates the feed speed to the cutter speed and provides an input to the cutter cyclic motor 20 to synchronize the cutter speed with the material speed during the cutting portion of the cutter cycle in the event a cutter speed is commanded by the operator that is different than the synchronous speed. In Hayashi, the cutter cyclic speed is controlled to determine the length ( $L_o$ ) of material cut. The roller 28, or the encoder on the roller, is merely used to determine the synchronous speed of the cutter, but has nothing to do with determining the length much less the actual length of the material being cut. By way of example, in order to increase the length  $L_o$  of the cut material, the cyclic speed of the cutter is reduced (i.e. a greater length of material 12 traveling at given traveling speed passes past the cutter blade). However, if the set length  $L_o$  is greater than the synchronous length  $L_s$  (i.e. the cutter speed is below the synchronous speed identified using roller 28) then an appropriate output is sent to motor 20 to increase cutter speed to synchronous speed during the portion of the cycle when the material is cut. Thus, in Hayashi determination of the dispensed tape length is with the encoder 34

on the motor 20 (see Fig. 2) and not with the roller/encoder 27. Nowhere does Hayashi disclose or suggest means mounted on the idler wheel shaft for determining that the first dispensed tape length has the first selected length as otherwise called for in claim 2.

Neither the AAPA nor Hayashi disclose or suggest the features recited in claim 2. Hence, the combination of the AAPA and Hayashi cannot provide features that are not disclosed or suggested in either reference. Claims 2-3 are patentable over the cited prior art. Similarly claims 11-12 and 14-18 are patentable over the cited prior art.

Claim 5 calls for means to automatically correct for errors in length of the first selected length of the tape. The AAPA does not disclose or suggest this. Hayashi discloses "correction values" N. However, correction value N in Hayashi is not an automatic correction for errors in length of the piece to be cut. Rather, the "correction value" N is merely a correction value relating the speed of the cutter to the traveling speed of the material to identify the condition where the speeds are synchronous;  $N = 0$  (see equation col. 6, line 5). The "correction value" N in Hayashi is different than an automatic correction for errors in length as called for in claim 5.

Claims 9 and 18 have been rejected under 35 U.S.C. 103 as being obvious over the AAPA. The Applicants respectfully disagree.

The Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness with respect to the features called for in claims 9 and 18. None of the cited prior art references disclose or suggest anything about a sealing tape dispenser having first electronic controls on the housing

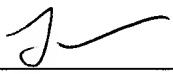
and remote second electronic controls connected to the first controls. Nevertheless, the Examiner asserts without more that it would have been obvious to one skilled in the art to employ remote second electronic controls because the use of remote electronic controls is old for the purpose of controlling a plurality of devices. This is no more than the bare assertion that the use of remote electronic controls is known generically for some devices. However, this alone (even if true) is not enough to support a finding (i.e. establish a prima facie case) that it would have been obvious to one skilled in the art to modify a sealing tape dispenser (as per the AAPA) and provide it with a first electronic control on the dispenser housing and a second remote electronic control connected to the first control as otherwise called for in claims 9 and 18. Claims 9 and 18 are patentable over the cited prior art and should be allowed.

The Communication Paper No. 11 states that the Applicants' earlier Response is not fully responsive, because it failed to address Laciak. This is not correct. Claims 4 and 13 were rejected under 35 U.S.C. 103 as being obvious in view of AAPA and Laciak. Claim 13 has been cancelled. Claim 4 is dependent on claim 1, and thus, at the very least is patentable for the reasons noted before with respect to claim 1. Laciak was not used as the basis of any other rejection, and hence, in view of the above no further arguments are needed to overcome Laciak.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now pending in the application are allowable. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
\_\_\_\_\_  
Janik Marcovici  
Reg. No. 42,841

5/26/04  
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Date

Perman & Green, LLP  
425 Post Road  
Fairfield, CT 06824  
(203) 259-1800  
Customer No.: 2512

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